

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 477 - SB 450

March 27, 2011

SUMMARY OF BILL: Creates a Class A misdemeanor offense for internal possession of a controlled substance, unless the substance was obtained with a valid prescription. Specifies that the presence of any amount of a controlled substance in a lawfully obtained sample of a person's bodily fluid is evidence of internal possession. The offense is punishable as a Class E felony if the person has two or more prior convictions.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$3,319,100/Incarceration*

Assumptions:

- Currently, it is a Class A misdemeanor for a person to knowingly possess or casually exchange a controlled substance, unless the substance was obtained with a valid prescription.
- According to data from the Development Employment Security Division of the Department of Labor and Workforce Development, there are 2,782,200 employed Tennesseans. The Department of Correction (DOC) assumes 10 percent (278,220) of those employees were drug tested. Assuming 3.8 percent (10,572) (as cited in a Quest Diagnostic 2007 trend publication) would test positive. DOC estimates one percent (106) of the persons who tested positive would be second or subsequent offenders resulting in 106 additional offenders in the first year.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in 12 additional offenders in the tenth year. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 118 second or subsequent offenders convicted of a Class E felony.
- According to DOC, the average operating cost per offender per day for calendar year 2011 is \$60.62. The average post-conviction time served for a Class E felony is 1.27 years (464 days) at a cost of \$28,127.68 (\$60.62 x 464 days). The total additional operating cost for 118 offenders is \$3,319,066.24 (\$28,127.68 x 118).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc